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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/824,248 | 04/03/2001 | Koichi Sato | P20491 | 1314 |

7055 7590 11/02/2006

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EXAMINER

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ART UNIT PAPER NUMBER

2622

DATE MAILED: 11/02/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/824,248
Filing Date: April 03, 2001
Appellant(s): SATO, KOICHI

Bruce H. Bernstein
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 8, 2006 appealing from the Office action mailed February 27, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| | | |
|-----------|-----------------|---------|
| 6,169,575 | ANDERSON et al. | 01-2001 |
| 6,466,264 | SHIOJI | 10-2002 |

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 9, 10, and 12-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (U.S. Pat. No. 6,169,575) in view of Shioji (U.S. Pat. No. 6,466,264).

Regarding *claim 9*, Anderson ('575) discloses an electronic still camera comprising: a memory (Fig. 3, removable memory 354) that stores a discrete image obtained in a still photographing operation (Fig. 6, Camera Folder 600, Still Images; col. 7, lines 23-26) and that stores, for each of a plurality of discrete images sequentially obtained in a continual still image photographing operation in which the plurality of discrete images are taken at an interval time set by an operator (col. 7, lines 26-30, and 35-40, wherein the timer delay parameter is an operator for setting the interval time), a unique indicator that indicates whether said discrete image was sequentially recorded in the continual still image photographing operation (col. 6, lines 9-15) because the image file tags identify each image of a group of related images by the type of image group and the image position in a sequence of image files, i.e. the image file tags indicate that the image was captured in a burst or time-lapse image sequence.

Anderson ('575) does not disclose a determination processor that determines whether the plurality of discrete images were obtained in said continual still image photographing operation; and an image processor that continually reproduces said plurality of discrete images, as a common operation on said plurality of discrete images, at a same interval as that of said continual still image photographing operation when it is determined using said unique indicator that said plurality of discrete images were obtained in said continual still image photographing operation.

However, Shioji discloses a recording medium comprising image signals of different frame rates, wherein a reproducer reproduces the image signals of different frame rates in compliance with the frame rate information (col. 3, lines 28-40). Shioji further discloses a determination processor that determines whether the plurality of discrete images were obtained in said continual still image photographing operation (Fig. 10, §61) because the CPU determines a still image reproduction mode or a motion image reproduction mode; and an image processor that continually reproduces said plurality of discrete images, as a common operation on said plurality of discrete images, at a same interval as that of said continual still image photographing operation when it is determined using said unique indicator that said plurality of discrete images were obtained in said continual still image photographing operation (col. 3, lines 29-40; col. 1, lines 1-5) because the frame rate information is a unique indicator for indicating that a plurality of discrete images are obtained in a continual still image photography. One of ordinary skill in the art would have reproduced determined and reproduced a plurality of discrete images obtained in a continual still image photographing operation at the same interval as that of the continual still image photographing operation in order to reproduce a desired image signal in compliance

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with the frame rate detected by the detector at a normal rate (col. 3, lines 41-66). As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to have provided a determination processor that determines whether the plurality of discrete images were obtained in said continual still image photographing operation; and an image processor that continually reproduces said plurality of discrete images, as a common operation on said plurality of discrete images, at a same interval as that of said continual still image photographing operation when it is determined using said unique indicator that said plurality of discrete images were obtained in said continual still image photographing operation in order to reproduce a desired image signal in compliance with the frame rate detected by the detector at a normal rate.

Regarding **claim 10**, Shioji discloses that the image processor continually reproduces said plurality of discrete images as the common operation (Fig. 10, S65 Motion Image Reproduce Processing).

Regarding **claim 12**, neither Anderson ('575) nor Shioji disclose that the image processor to continually delete said plurality of discrete images as the common operation. However, Official Notice is given that it is old and well known in the art to delete a group of discrete images in order to make more storage space available. As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to have configured the image processor to continually delete said plurality of discrete images as the common operation in order to make more storage space available.

Regarding **claim 13**, Anderson ('575) discloses automatically relating images captured during an image capture to form a user specified time-based group (col. 1, line 56-col.2, line 3) and identifying the individual image files with indicators, the indicators including the type of

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group the image files form, and the position in the sequence of image files. Anderson ('575) does not disclose the determination processor determines whether said plurality of discrete images were obtained in said continual still image photographing operation by reading image recording information recorded for each of said plurality of discrete images. However, Shioji discloses recording a time sequential group of JPEG images in a motion image file, wherein a header is written comprising frame rate information; and detecting the frame rate of a motion image file (Fig. 13, S107; col. 10, lines 47-64). One of ordinary skill in the art at the time of the invention would have provided a header comprising frame rate information; and detecting the frame rate of a motion image file in order to reproduce a time sequential group of JPEG images in compliance with the frame rate detected by the detector at a normal rate (col. 3, lines 41-66). As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to have configured the determination processor to determine whether said plurality of discrete images were obtained in said continual still image photographing operation by reading image recording information recorded for each of said plurality of discrete images in order to reproduce a time sequential group of JPEG images in compliance with the frame rate detected by the detector at a normal rate.

Regarding **claim 14**, Shioji discloses the image recording information comprises a continual-image flag recorded in a header area corresponding to an image recording area in which a discrete image is recorded (col. 10, lines 47-64).

Regarding **claim 15**, Anderson ('575) discloses an electronic still camera, comprising: a recording processor that continually records a plurality of discrete images at a predetermined interval set by an operator in a continual still image photographing operation in which the

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plurality of discrete images are taken (col. 7, lines 26-30, and 35-40, wherein the timer delay parameter is an operator for setting the interval time); and a memory (Fig. 3, removable memory 354) that stores, for each of said plurality of discrete images, a unique indicator that indicates whether said discrete image was sequentially recorded in the continual still image photographing operation (col. 6, lines 9-15) because the image file tags identify each image of a group of related images by the type of image group and the image position in a sequence of image files, i.e. the image file tags indicate that the image was captured in a burst or time-lapse image sequence.

Anderson ('575) does not disclose that the unique indicator enables the plurality of discrete images to be continually displayed as discrete images at the same interval as that of said continual image photographing operation.

However, Shioji discloses a recording medium comprising image signals of different frame rates, wherein a reproducer reproduces the image signals of different frame rates in compliance with the frame rate information (col. 3, lines 28-40). Shioji further discloses a determination processor that determines whether the plurality of discrete images were obtained in said continual still image photographing operation (Fig. 10, §61) because the CPU determines a still image reproduction mode or a motion image reproduction mode; and an image processor that continually reproduces said plurality of discrete images, as a common operation on said plurality of discrete images, at a same interval as that of said continual still image photographing operation when it is determined using said unique indicator that said plurality of discrete images were obtained in said continual still image photographing operation (col. 3, lines 29-40; col. 1, lines 1-5) because the frame rate information is a unique indicator for indicating that a plurality of discrete images are obtained in a continual still image photography. One of ordinary skill in

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the art would have reproduced determined and reproduced a plurality of discrete images obtained in a continual still image photographing operation at the same interval as that of the continual still image photographing operation in order to reproduce a desired image signal in compliance with the frame rate detected by the detector at a normal rate (col. 3, lines 41-66). As a result, it would have been obvious to one of ordinary skill in the art at the time of the invention to have configured the unique indicator to enable the plurality of discrete images to be continually displayed as discrete images at the same interval as that of said continual image photographing operation in order to reproduce a desired image signal in compliance with the frame rate detected by the detector at a normal rate.

Regarding *claim 16*, Shioji further discloses an image processor that continually performs a common operation on said plurality of discrete images (Fig. 10, S65 Motion Image Reproduce Processing).

(10) Response to Argument

Claim 9

Regarding claim 9, on the bottom of page 7 of the appeal brief applicant argues that the motion signal described in Shioji and the continual still image sequence in applicant's invention cannot be interpreted to be the same thing. The examiner disagrees with this assertion. One of ordinary skill in the art would realize that a motion image (or video image) signal is nothing but a series of captured still images captured at a frame rate (interval). In the first paragraph of page 8 of applicant brief, the applicant points out that Shioji teaches two different "motion-image frame rates" comprised of 30 fps (frames per second) to form 1 second with 30 still image frames

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and 15 fps (frames per second) to form 1 second with 15 still image frames. See column 5, lines 9-12. Applicant asserts that this teaching explicitly discloses a difference between motion and still images. The examiner fails to see this. In fact, the examiner feels that this teaching directly contradicts applicant's assertion by showing that a motion image is a series of still images over an interval (1 sec).

Additionally, applicant argues on page 8 of the brief, that Shioji teaches a difference in still and motion images as shown in Figure 5, which discloses two different processing operations for still and motion images. The examiner contends that Anderson teaches a difference in the still images and continual still images (time lapse), which is similar to the difference in still and motion images, respectively. The time-lapse images are a series of still images that are grouped together to form a continual still image. This is directly analogous to Shioji's definition of a motion image as described above (30 fps (frames per second) to form 1 second with 30 still image frames and 15 fps (frames per second) to form 1 second with 15 still image frames). Anderson specifically discloses that there is a difference between a single still image and the still images captured in the time-lapse mode (see col. 6, lines 34 to col. 7, line 35). Similarly to Anderson, Shioji discloses two different image capture modes – a still mode in which a single image is captured and a video image (consisting of the aforementioned sequence of still image captured at a frame rate).

Additionally, applicant argues on lines 8-14 of the appeal brief that "There is no disclosure whatsoever in Shioji that an operator would select a frame rate for any operation related to obtaining still images..." However, as presented on page 3 of the final rejection mailed February 27, 2006, the examiner teaches that Anderson discloses this limitation. More

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specifically, Anderson discloses a timer delay parameter for setting an interval time for the time-lapse photography. See col. 7, lines 26-40 of the Anderson reference. Therefore, the examiner has used Anderson to meet this limitation, not the Shioji reference. However, if a continual still image operation is interpreted to be a motion image as interpreted by the examiner, Shioji also discloses the ability to select a frame rate for any operation related to obtaining still images by providing the user the ability to select different frame rates (i.e. 30 fps or 15fps).

Anderson teaches the ability to tag the images as a time lapse (continual still) and to specify the interval at which they were captured. Clearly, one would be motivated to reproduce the time-lapse image using the same speed at which it was captured. Shioji teaches a way of playing back a sequence of captured images at a rate at which it was captured using the unique identifier (frame rate setting stored with the image). For this reason the rejection of claim 9 is deemed to be appropriate.

Claims 10 and 12-14

No additional arguments have been presented, which differ from the arguments presented above for claim 9.

Claim 13

Applicant maintains a similar argument as above, in that Shioji discloses a motion image not a continual still image sequence. The examiner maintains that a motion image is nothing but a sequence of still images captured at an interval. See the arguments above in the discussion of claim 9.

Claim 15

Applicant maintains a similar argument as above, in that Shioji discloses a motion image not a continual still image sequence and that Shioji does not disclose a unique indicator that indicates whether a discrete image was sequentially recorded in the continual still photographing operation or that such a unique identifier would enable the plurality of discrete images to be continually displayed as discrete images at a same interval as that of continual still image photographing operation. However, the examiner maintains (as discussed in the rejection of claims 9 and 15) that the unique identifier in Shioji is the frame rate information stored in the header that enables the motion images to be reproduced at the captured frame rate. See column 10, lines 47-64. As mentioned above the motion image of Shioji is interpreted by the examiner to be a continual still image photograph sequence. Therefore, the examiner maintains that Shioji does disclose a unique indicator that indicates whether a discrete image was sequentially recorded in the continual still photographing operation or that such a unique identifier would enable the plurality of discrete images to be continually displayed as discrete images at a same interval as that of continual still image photographing operation.

Claim 16

No additional arguments have been presented, which differ from the arguments presented above for claim 15.

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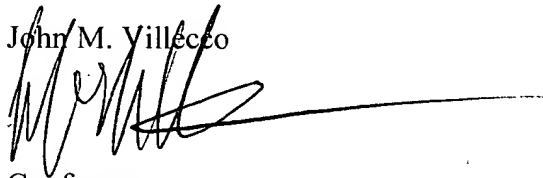
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

John M. Villecco



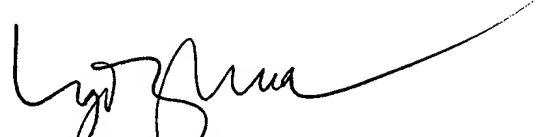
Conferees:

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